

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

ORIGINAL APPLICATION NO.29 of 2022 (WZ)

Shashikant Vithhal Kamble

.... Applicant

Versus

Ministry of Environment, Forest & Climate Change,
Government of India and Ors.

.... Respondents

**ADDITIONAL AFFIDAVIT ON BEHALF OF
MAHARASHTRA POLLUTION CONTROL BOARD i.e.
RESPONDENT NOS. 8 & 9.**

I, Nitin Shinde, Age – 57 years, Occupation – Service, the Sub-Regional Officer of the Maharashtra Pollution Control Board at Pune-I having my office address at 2nd Floor, Jog Centre, Wakdewadi, Pune – 411003 do hereby state on solemn affirmation as under –

- (1) I am filing this Additional Affidavit in compliance of the Order dated 2/8/2023 passed by this Hon'ble Tribunal, wherein, the Hon'ble NGT directed to file additional affidavit giving the clear position in the case of building construction projects, as to what stage Consent to Establish is required to be obtained by the Project Proponent and what is procedure being followed by MPCB for gaps in renewal of Consent to Establish(CTE)/ Consent to Operate (CTO) including position in respect of earlier times till now.



(2) I say and submit that Section 25 & 26 of the Water (Prevention & Control of Pollution) Act, 1974 and Section 21 of the Air(Prevention & Control of Pollution) Act, 1981 provides that:

- i. **Section 25 of the Water Act, 1974 :- Restrictions on new outlets and new discharges.**—no person shall, without the previous consent of the State Board, a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage).
- ii. **Section 26 of the Water Act, 1974 :- Provision regarding existing discharge of sewage or trade effluent.**— any person was discharging any sewage or trade effluent into a [stream or well or sewer or on land], the provisions of section 25 shall, so far as may be, apply in relation to such person as they apply in relation to the person referred to in that section subject to the modification that the application for consent to be made under sub-section (2) of that section 2 [shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette].

iii. **Section 21 of the Air Act, 1981- Restrictions on use of certain industrial plants.**—1 [(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area.

- (3) I say and submit that EIA Notification, 2006 provides that - Building and construction projects $\geq 20,000$ sq. mtrs. & $< 1,50,000$ sq. mtrs. of built up area falls at Sr. No. 8(a) and Townships & Area development projects as well as industrial sheds, educational institutions, hospitals and hostels for educational institutions covering an area ≥ 50 ha. and or built up area $\geq 1,50,000$ sq.mtrs falls at Sr. No. 8(b) of the Schedule -I of the list of projects or Activities requiring prior Environmental Clearance.
- (4) I say and submit that the Ministry of Environment, Forest and Climate Change, Government of India vide Order dated 20/9/2021 directed all State Pollution Control Boards to ascertain the applicability of EIA Notification at the time of grant/renewal of CTE & stipulate appropriate conditions of obtaining Environmental Clearance (EC), if applicable, before construction/commencement of project/activity and Ensure that project proponent possesses a valid prior EC in terms of extent EIA Notification, if applicable, at the time of grant /renewal of CTO & no CTO shall be granted or renewed unless EC, if applicable, has been obtained.



(5) Further the Ministry of Environment, Forest & Climate Change, Government of India vide Office Memorandum dated 7/7/2021 directed that the State Pollution Control Boards before grant of renewal of Consents under Water (Prevention & Control of Pollution) Act, 1974 & Air Act, 1981 shall ensure that the Project Proponents applies for or possess valid Prior Environmental Clearance in terms of extent EIA Notification and shall not grant or renew CTO unless Environment Clearance (if applicable) has been obtained.

(6) I say and submit that the Central Pollution Control Board has issued directions u/s 18(1)(b) of the Water (P&CP) Act, 1974 and the Air (P&CP) Act, 1981 vide letter dated 12/1/2021 regarding classification of industries categorised as under :

Building & Construction projects more than 20,000 sr. mtrs. built up area and waste water generation > 50KLD

a) Waste water is generated due to domestic use

b) Projects having overall waste water generation of 50KLD or more are considered for categorization. However, projects having waste water generation < 50 KLD are also required to treat/manage swage with appropriate systems such as soak pit , septic tank, STP etc. or direct discharge into sewer connected with terminal STP etc. As per prescribed guidelines/norms.



c) If the discharge ≥ 100 KLD, it will have the normalised score (pollution index) of 75 & hence, be categorised as Red.

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- (7) After scrutinizing any application for consent, the Maharashtra Pollution Control Board is granted Consent to Establish, subject to condition that the Applicant shall obtain Consent to Operate from the Board before commissioning of the project. The said Consent to Establish is valid upto 5 years or upto commissioning of the project, whichever is earlier, subject to certain terms & conditions, wherein, one of the condition is that the Applicant shall obtain Consent to Operate from the Maharashtra Pollution Control Board before commissioning of the project. Further, if the project proponent has not commenced the construction activities within the stipulated time mentioned in the Consent to Establish, then, the project proponent shall apply for revalidation of Consent to Establish before 60 days of the expiry of the Consent to Establish.
- (8) I say and submit that as regard to gaps in renewal of Consent to Establish / Consent to Operate, earlier there was no circular/ guidelines to calculate the gap, however, after verifying the present status, the practice of Maharashtra Pollution Control Board was to initiate actions against the defaulting project proponents by issuance of show cause notice, proposed directions etc. before issuance of Circular dated 12/7/2022.

(9) I say and submit that the Respondent Board has issued Circular dated 12/7/2022 for imposition of penal fees for occupiers, violating combine consent regime prescribed under the Air / Water Acts.

(10) I say and submit that from the date of issuance of Circular dated 12/7/2022, the Respondent Board has imposed appropriate penal fees towards violation of Environmental Enactments.

Solemnly affirmed on this 5th day of October, 2023 at Pune.

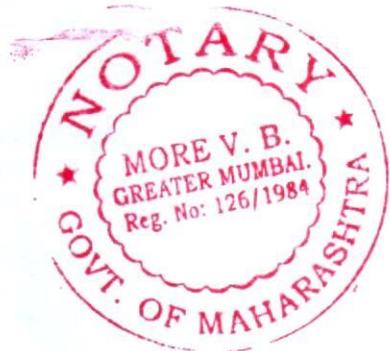
I know the affiant

For and on behalf of Maharashtra Pollution Control Board i.e. Respondent Nos.8 & 9,

ADVOCATE

Nitin Shinde
05/10/23
(Nitin Shinde)

Sub-Regional Officer, Pune-I



BEFORE ME
Vasant B. More
5/10/2023
VASANT B. MORE
Notary Gr. Mumbai

REGISTER Sr. No 657/2023

